

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
Civil Action No. 1:12-cv-00548

CHARLENE RAIFORD)	
)	
Plaintiff,)	
)	
v.)	
)	<u>MOTION TO DISMISS CLAIMS</u>
)	<u>IN PLAINTIFF'S COMPLAINT</u>
NORTH CAROLINA CENTRAL)	
UNIVERSITY, through the BOARD)	
OF GOVERNORS OF THE)	
UNIVERSITY OF NORTH CAROLINA)	
and RAYMOND PIERCE, LAUREN)	
COLLINS, and NICHELLE PERRY in)	
their individual capacities,)	
)	
Defendants.)	

PURSUANT to Fed. R. Civ. P. 12(b)(1), 12(b)(2), and 12(b)(6), Defendants North Carolina Central University (“the University”), through the Board of Governors of the University of North Carolina (“the Board of Governors”), Raymond Pierce, Lauren Collins, and Nichelle Perry appearing specially through their attorney for the limited purpose of this motion, move that the Court dismiss certain claims in the Complaint on the following grounds:

1. The Court lacks personal and subject matter jurisdiction over Plaintiff's claim for relief pursuant to 42 U.S.C. §1981 and 42 U.S.C. §1983 as such actions cannot properly be brought against the Defendants.
2. Plaintiff has failed to file her age and race discrimination claims, pursuant to Title VII, 42 U.S.C. §200e, et seq., and the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634, within the statutory time period.

3. The Court lacks personal and subject matter jurisdiction over all the claims referenced in this motion because the University is entitled to sovereign immunity as such claims are not authorized against the State by statutory waiver or abrogation.
4. On all claims for relief referenced in this motion, Plaintiff has failed to state a claim upon which relief can be granted.

In support of this motion, Defendants rely on the Complaint, the memorandum of law in support of the motion to dismiss, and the attached affidavit of Hope Murphy Tyehimba.

WHEREFORE, Defendants respectfully request that the Court:

1. Grant the Defendants' motion to dismiss on the claims referenced in this motion and detailed in the supporting memoranda; and
2. Grant the Defendants such other relief as the Court deems proper.

Respectfully submitted, this the 31st day of August, 2012.

ROY COOPER
Attorney General

/s/ Kimberly D. Potter
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CERTIFICATE OF SERVICE

I certify that the foregoing **DEFENDANTS' MOTION TO DISMISS** was electronically filed on 31 August 2012 with the Clerk of the Court using the CM/ECF system which will send notification of such filing to Matthew Johnson and Shaun Southworth, Attorneys for Plaintiff, if registered or, I hereby certify that I have mailed the document to the following non CM/ECF participant:

Matthew Johnson
Shaun C. Southworth
Melville Johnson, P.C.
22 Seventh Street N.E.
Atlanta, GA 30308

This the 31st day of August 2012.

ROY COOPER
Attorney General

/s/ Kimberly D. Potter
Kimberly D. Potter
Special Deputy Attorney General